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Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women
Seventieth session

Summary record of the 1619th meeting
Held at the Palais des Nations, Geneva, on Friday, 13 July 2018, at 3 p.m.

Chair: Mr. Chalal (Vice-Chair)

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In the absence of Ms. Leinarte, Ms. Chalal, Vice-Chair, took the Chair.

The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 18 of the Convention (*continued*)

Combined second and third periodic reports of the Cook Islands (*continued*) (CEDAW/C/COK/2-3; CEDAW/C/COK/Q/2-3 and CEDAW/C/COK/Q/2-3/Add.1)

1. *At the invitation of the Chair, the delegation of the Cook Islands took places at the Committee table.*

Articles 10 to 14 (*continued*)

2. **Ms. Gbedemah**, recalling that, in its concluding comments on the State party's initial report (CEDAW/C/COK/CO/1, para. 32), the Committee had expressed concerns about resistance from the Chamber of Commerce to an amendment to the Employment Relations Act of 2012 that provided for maternity protections, said that, since the amendment had still not been enacted, she would be interested to learn which parties were currently responsible for the delay and what measures had been taken to engage with those parties. Urgent action was required to pass the amendment and establish in domestic law a maternity leave period in line with the requirements of the International Labour Organization (ILO) Maternity Protection Convention, 2000 (No. 183). She wondered whether the State party would review its maternity legislation to combine prenatal and postnatal maternity leave into a single period, and to allow appropriate forms of certification other than medical certificates, in line with ILO Convention No. 183; whether the State party would consider introducing breastfeeding or nursing breaks for working mothers into its legislation, in accordance with ILO standards; and whether it would consider increasing paternity leave.

3. Statistics showed that women's participation in the labour force was 10 per cent lower than that of men, and that more women held part-time jobs. It would be interesting to hear whether the State party had assessed the impact of that situation on women's pensions and whether it had considered incorporating the informal sector into the social security system so that women could benefit from the same entitlements. Noting that the lack of affordable childcare posed a major obstacle to women joining the labour market, she wondered whether the State party would establish a public childcare system or introduce universal standards and policies to provide for flexible working hours. With regard to the issue of vertical segregation in the workplace, she would appreciate an explanation as to how the State party ensured that employment opportunities in non-traditional sectors were open to women; and what the outcome of any measures adopted to promote such opportunities had been. Information about the current gender pay gap and the measures taken to reduce it, as well as information on the situation of migrant workers in the country, would likewise be useful. Lastly, noting that the State party had introduced legal provisions against sexual harassment, she asked how many complaints of harassment had been received and how they had been handled.

4. **The Chair**, speaking in her capacity as an expert, said that she would appreciate information on the concrete measures adopted to enable women to make informed decisions concerning their reproductive rights and to ensure access to the necessary health-care services. It would be helpful to hear about the research into women's health that had been carried out to inform medical practice, including the conclusions reached and the use made of the findings. In view of the reproductive health issues that adolescents faced, she would be interested to learn what specific measures the State party had taken to ensure that all women and girls had access to quality sexual and reproductive health services, including age-appropriate sex education and affordable contraception; whether awareness-raising campaigns on the prevention of early pregnancy and sexually transmitted diseases had been carried out in the local languages; and what measures other than sex education had been introduced in schools to respond to young people's sexual and reproductive health issues. Given the prevalence of early and unplanned pregnancies, it would be interesting to know

whether the Government intended to remove the requirement for girls under the age of 16 years old to have parental consent to obtain contraception.

5. The high suicide rate and unequal access to mental health care were causes for concern. She wondered whether any research had been conducted to ascertain the root causes and the extent of those problems. Given that the country's scattered and remote island territory made transporting goods and supplies difficult, which in turn restricted women's access to health care, she would like to know whether the Government intended to introduce programmes, possibly including temporary special measures, that would ensure the availability of sufficient technical, financial and human resources to guarantee access to health care for all women throughout the territory. She also wished to know the extent to which the planned amendments to the Crimes Act of 1969 would decriminalize abortion. For example, would the grounds for legal abortions be extended to include cases where pregnancy posed serious physical and mental health risks for the mother and child? Details of the time frame for adopting those amendments would also be useful.

6. **Ms. Herman** (Cook Islands) said that goal 8 of the National Sustainable Development Plan was to have an inclusive, equitable and high quality education system that promoted lifelong learning opportunities. The indicators being used to track progress towards that goal included increased literacy and numeracy, higher enrolment rates in early childhood education and improved academic achievement at the secondary school level. One of the eight subjects covered by the Cook Islands primary school curriculum was health and physical well-being, which included sex education. Teachers received training on that topic and were monitored by the Ministry of Education. The New Zealand school curriculum was taught at the secondary level, although sex education programmes were adapted to reflect the culture and needs of the people of the Cook Islands. Education statistics for the whole country were collected and analysed on a yearly basis, and used to compile reports in line with international reporting requirements, including those set under the 2030 Agenda for Sustainable Development. Schools collected data on the number of pregnant teenagers and the number who returned to school after giving birth. Under the Education Act of 2012, it was illegal to exclude girls who became pregnant from school. It was common practice for the entire family to assist in raising children, allowing young mothers to return to school. A total of 70 students with disabilities were enrolled in the school system, 23 of whom were girls. Since the community was small, the needs and background of all those children were widely known. With regard to the school population in general, girls outperformed boys at most levels and remained in school for longer.

7. There were many cases of women returning to the Cook Islands and assuming leadership positions after studying abroad; at present, six of the seven executive heads of ministries were women who had studied abroad. Furthermore, three of those women were below the age of 40 years old. Nevertheless, she recognized that large numbers of educated Cook Island women chose to stay in New Zealand because of the higher pay on offer, which was a problem for the country's advancement.

8. Women were entitled to six weeks of maternity leave under the Employment Relations Act of 2012. As far as she was aware, leave could be taken either before or after the birth. The amendments to the Employment Relations Act were complex and required parallel consideration of occupational health and safety regulations, employer liability insurance and the workers' compensation scheme, as well as consultation with all levels of government. Although the country received technical assistance from ILO, the small size of its Labour Division had resulted in delays in passing the amendments. Furthermore, the current focus was on ratifying various ILO conventions, including the ILO Worst Forms of Child Labour Convention, 1999 (No. 182) and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), which had recently been ratified. Nationwide consultations were currently under way for occupational health and safety reform and the Government would start drafting that legislation within the coming 12 months. She was unaware of any changes to the Employment Relations Act that would recognize forms of certification other than medical certificates when granting maternity leave.

9. There was no legal provision for breastfeeding or nursing breaks for working mothers. However, it was generally accepted that working mothers could leave the

workplace to breastfeed, or arrive late or leave early to care for their children. Most places of work were family-friendly and had spaces for children. Childcare was expensive and unaffordable for the general population and parents often relied on other family members for support. The Ministry of Internal Affairs had indicated that it would adopt a childcare policy after assessing whether or not the State should provide direct funding to childcare facilities and after considering a formal accreditation process for such facilities.

10. The public sector had adopted a gender-sensitive approach to recruitment, though no progress had been made in that regard in the private sector. Research to evaluate the gender pay gap had not yet been conducted. In the meantime, individual employees were entitled to negotiate wages with their employers. Section 56 of the Employment Relations Act of 2012 prohibited sexual harassment. The State party would raise awareness of that provision as the next step since no complaints had yet been filed.

11. The number of migrant workers in the country had increased significantly owing to the burgeoning tourism sector. Migrant workers mainly held low-paid jobs and were often marginalized from society. The country's immigration policy was under review to ensure that they were treated fairly.

12. **Ms. Rattle** (Cook Islands) said that the Cook Islands Family Welfare Association, an affiliate of the International Planned Parenthood Federation, worked closely with the Ministry of Health. The Association educated women about contraception and ran a clinic that conducted sexual health examinations for women. Other health clinics were available across the islands, providing postnatal care and vaccinations, inter alia. The Association also played a role in teaching sex education in schools. Young people could obtain contraception from the clinics and other distribution points. Although no doctors were available on the remote islands, medical care was provided by nurses who maintained close contact with doctors on the mainland.

13. The *Te Kainga* Mental Health and Wellbeing Centre provided respite care for the families of persons with intellectual disabilities. Suicide was a major concern and the Centre provided support to the families of persons who had committed suicide. As the Speaker of Parliament, she herself had recently organized a debate which had brought members of the community together to openly discuss mental health issues, including suicide. The debate had involved medical professionals and victims of mental illness, and had encouraged those suffering from mental illness and members of their families to speak out and seek assistance.

14. Abortion was illegal under the current Crimes Act, enacted in 1969. The Crimes Act Amendment Bill of 2017 would decriminalize abortion only under certain circumstances within the first 20 weeks of pregnancy. Consultations on the Bill had been held on the main island and the southern group of islands; the northern group would be consulted when Parliament returned after the general election. The long travel times between the islands was another reason for the delays in enacting legislation. No progress had been made in introducing temporary special measures within the health sector and the State party would welcome the Committee's support in that regard.

15. **Ms. Herman** (Cook Islands) said that citizens of the Cook Islands were also New Zealand nationals, and as such were entitled to use the New Zealand health-care system. Women seeking an abortion often travelled to New Zealand, where the procedure was legal. The health of its citizens was of paramount importance to the Government of the Cook Islands. Anyone in the northern group of islands who required treatment was flown to the main island, even though, with transport costing up to $NZ 30,000, that arrangement placed a major burden on the health budget.

16. **Ms. Arocha Domínguez** said that as tourism and other developments brought change to the Cook Islands, the Government could not rely on the country's strong sense of community to address all concerns; its policies would need to be amended and developed. With that in mind, she would be interested to know what areas of the education system were considered not to be working as efficiently as they might, clear examples of such areas being sex education, persisting stereotypes and the availability of qualified teachers. She also wondered whether the Government had considered the possibility that early

pregnancy might be being indirectly encouraged, given that it was natural for the extended family to provide childcare.

17. **Ms. Gbedemah** said that she would like to know whether the State party included the unpaid care work of women in its gross domestic product, in line with the Committee's general recommendation No. 17; whether, in line with the Convention, it was advocating greater sharing of parental roles and responsibilities; and whether it had considered regulating the private childcare industry more directly. The review of maternity leave should remove the current two-week limit on leave before the expected due date. In fact, there should be no mandatory pre- and postnatal leave periods: such decisions should be agreed between the employee, employer and the woman's doctor, taking account of the type of work the woman performed. She commended the State party for ratifying some of the core ILO conventions but urged it to take steps to ratify those specifically pertaining to women.

18. **Ms. Hofmeister** said that she would like to know whether working parents in de facto relationships had the right to take parental leave.

19. **The Chair**, speaking in her capacity as an expert, said that she would like to know whether the Government intended to adopt national legislation to prohibit the sterilization of women with disabilities without their free, prior and informed consent. Further information concerning women's lack of access to mammography facilities in the outer islands was also needed.

20. **Ms. Herman**, responding to Ms. Arocha Domínguez's question about inefficiencies in the education system, said that truancy was an issue for a very small number of children. She would provide written information about those children, all of whom were under the supervision of the Ministry of Internal Affairs, after the meeting. With regard to the lack of childcare services, another option open to working mothers who did not have sufficient family support was to employ domestic workers to provide childcare. The Family Protection and Support Act recognized persons in de facto relationships as eligible for maternity and paternity leave.

21. An assessment of women's unpaid work would need to be conducted during the review of the Employment Relations Act. The Government was currently working with ILO to establish its first Decent Work Country Programme and it was hoped that, through those efforts, the Cook Islands would soon be in a position to ratify all of the eight core ILO Conventions and also to make gender-specific commitments.

22. **Ms. Numanga** said that, following recent amendments to health policy, sterilizations could not be performed on adult women with disabilities without their prior, informed consent. The women concerned were free to make their own decisions as to whether or not to undergo the procedure.

23. **Ms. Rattle** said that, since it was necessary for the Ministry of Health to pay for a radiographer to travel to the main island, women in Rarotonga who were over 40 years of age, and women from the outer islands of any age, had access to mammography screening facilities for a one week period only, approximately every two years, organized with assistance from the Breast Cancer Foundation. Referrals could, however, be made for treatment in New Zealand.

24. **Ms. Narain** said that she wondered whether benefits such as those granted to women upon the birth of a child would be maintained under the new Government and how sustainable such benefits were in the medium term. With regard to women in the outer islands, she would particularly like to know what was being done to ensure the continued success of initiatives run by non-governmental organizations (NGOs), such as training in how to start a business. Had the Government concluded memorandums of understanding with the NGOs concerned or would the services ultimately be brought under the remit of the State? Did it plan to implement measures that would help women to access financing and had it set up cooperatives to help them set up their own businesses? She would appreciate clarification as to the status of the Women in Sport Commission, which ran most of the existing health initiatives. Was it an NGO or a government body? Given the prevalence of lifestyle-related, non-communicable diseases in the Cook Islands, she

suggested that government incentives to encourage women and girls to become more involved in athletics were an option worth considering.

25. **Ms. Song** said that, given the associated difficulties, the extent to which rural women were able to exercise their rights was a touchstone of Governments' political will and, more generally, a gauge of the extent to which all women enjoyed their rights. Since, in the outer islands, limited access to health services and lack of transportation between islands hindered women's advancement and social and political participation, she would like to know what steps the Government was taking to improve access to the basic services, such as safe and affordable transport, that were crucial to their wellbeing and participation. Could the delegation also confirm that women in the outer islands had sufficient access to water?

26. Noting that the periodic reports omitted to mention any education, training and job opportunities for women with disabilities that might have been created under the Policy on Disability Inclusive Development 2014–2019, she asked what had been done to help women with disabilities to become agents of change and to contribute to their society, community and country; and how the Government ensured that such women were consulted during the development of national and island-level programmes, plans and products. Lastly, she asked whether women had been actively involved in the development of the 2016–2020 Joint National Action Plan II on climate change and disaster risk management; what progress had been made in implementing the "Strengthening the Resilience of our Islands and our Communities to Climate Change" programme; and, given that the programme was donor-funded, how the Government would ensure its sustainability.

27. **Ms. Herman** said that, albeit pending the outcome of the petitions mentioned in the previous meeting (CEDAW/C/SR.1618), the Government had been largely unchanged by the recent elections. During its term in office, it intended to extend the welfare system to make child benefits available to families with children up to the age of 16 years old, on condition that they remained in school, and, to ensure that the welfare system was sustainable, the Ministry of Financial and Economic Management would endeavour to improve its medium-term budgeting capacity and ability to make long-term forecasts of non-discretionary and fixed expenditure, which included welfare expenditure.

28. Young persons, including girls, had various opportunities to get involved in sport, including through the health and physical wellbeing school curriculum, which was inclusive of persons with disability; through community-level athletics and sports clubs; through New Zealand-funded netball and rugby programmes designed for both girls and boys; and through the "Just Play" initiative sponsored by the United Nations Children's Fund. The Women in Sports Commission was overseen by the Sports and National Olympic Committee, which, in turn, fell under the remit of the Youth and Sports Division of the Ministry of Internal Affairs.

29. Freight subsidies facilitated the transportation of goods to and from the outer islands, thereby promoting women's economic empowerment. In addition, the Government provided free transport, accommodation and food for all persons from the outer islands who attended the annual *Te Maeva Nui* (Independence Day) celebrations. Besides being an occasion for singing and dancing, the festival provided an opportunity for persons from the outer islands to sell their local goods and produce and acquire essential items such as refrigerators, clothing and bedding with the proceeds.

30. The 2016–2020 Joint National Action Plan II had taken around a year to develop due to the extensive consultations involved. The aim had been to encompass any and all potential and existing activities that could serve to reduce emissions and increase resilience and adaptability. The consultations had included the week-long National Brilliant Resilient Seminar, organized to coincide with the 2016 annual independence celebrations. The five-year long "Strengthening the Resilience of our Islands and our Communities to Climate Change" (SRIC-CC) programme, which had been funded by the United Nations Development Programme, had helped women to produce and market coconut oil, inter alia. To ensure the sustainability of successful projects initiated under the SRIC-CC programme, which had now come to an end, the *Pa Enua* Action for Resilient Livelihoods (PEARL)

programme had been established. Under other agricultural initiatives, women had received assistance in introducing entirely new produce, such as apples and broccoli, in a tropical climate and in a previously male-dominated industry.

31. **Ms. Numanga** (Cook Islands) said that, under a programme established by the Cook Islands Sports and National Olympic Committee, persons with disabilities participated in an annual sports event celebrated on the islands. Persons from the outer islands also participated in annual community programmes and in the biennial National Youth Conference. On five outer islands, disability centres had been established where persons with disabilities could participate in life-skills programmes and receive training in making handicrafts and cooking food products that they could then sell at weekly markets. Persons with disabilities also participated in community activities run by churches, sports associations and women's groups. Whenever government projects and significant new pieces of legislation were being drafted, the proposals were discussed at consultation meetings in which persons with disabilities, members of their families and representatives of support groups took part.

32. **Ms. Pokura** (Cook Islands) said that, in order to ensure that rural women were able to enjoy a decent standard of living, the Government had established a memorandum of understanding with the Cook Islands National Council of Women through which the Council purchased handicrafts made on the outer islands with a view to selling them on Rarotonga. The cost of shipping the products to Rarotonga was subsidized by the Government, and the Business, Trade and Investment Board provided training in how to make the handicrafts and ensure that their quality met the required standard.

33. A memorandum of understanding on domestic violence and legal aid, established in conjunction with the Cook Islands Women's Counselling Centre, was to be extended to include harassment in the workplace. A biennial National Women's Conference was held to monitor progress under the above-mentioned memorandums of understanding and enable women from the outer islands to share information and make recommendations concerning future activities. In addition, the Ministry of Internal Affairs reported to the Cabinet of Ministers and Parliament on implementation of the memorandums on an annual basis.

34. **Ms. Rattle** (Cook Islands) said that, as part of the measures taken by the Government to prepare for climate change, water tanks had been installed on the outer islands to ensure that every household had access to water. Although it had not been possible to appoint a resident doctor to provide health care to persons living on the outer islands, an air transport service took patients to Rarotonga or elsewhere if they required care that could not be provided in situ. A mentoring programme had been established through which business experts provided advice to young persons who wished to set up a business.

35. Under a formal education programme established in conjunction with the Ministry of Education, persons with disabilities had the opportunity to attend the Creative Centre in Rarotonga, where they made clothing, jewellery and pottery that they could sell to generate income. Therapeutic assistance was provided at the *Te Vaerua* Rehabilitation Centre, also in Rarotonga. Many government staff worked with non-governmental organizations on a voluntary basis outside of their working hours and funds were made available to ensure that homes were adapted to the needs of persons with disabilities.

36. **Ms. Herman** (Cook Islands) said that patients suffering from serious illnesses were quickly transported to New Zealand so that they could receive the appropriate care. On the outer islands, highly qualified nurse practitioners were trained to look after patients with a wide range of conditions. Such nurses used communications technology to consult a doctor if they needed to do so.

Articles 15 and 16

37. **Ms. Hofmeister** said that she wished to know what steps would be taken to ensure that all the articles of the Convention were incorporated into domestic law; what measures would be taken to speed up the implementation of the Family Protection and Support Act, including in the areas of budgeting, capacity-building and monitoring; what the minimum age of marriage was for girls; and how patrimonial property was divided between a married

couple when their marriage ended. It would also be interesting to learn how customary land and titles were divided when a couple divorced and how the property of persons living in de facto unions or same-sex relationships, including persons from New Zealand who held Cook Island passports, was divided if they decided to separate.

38. **Ms. Rattle** (Cook Islands) said that, although the Government was not yet able to amend the Constitution in such a way as to incorporate all the articles of the Convention, it was taking steps to ensure that all new legislation complied with the Convention. Steps were being taken to amend the minimum age for marriage, which was currently 18 years for boys and 16 years for girls.

39. **Ms. Herman** (Cook Islands) said that a plan for budgeting and implementation had been incorporated into the Family Protection and Support Act when it had been drafted. However, as the budget of the Ministry of Internal Affairs had not been increased, it had not been possible to fund all of the measures envisaged under the Act. Although the Ministry of Internal Affairs was now running certain programmes itself, including the family group conferencing mechanism, lack of funding had so far prevented the Government from establishing shelters and mechanisms for removing children from abusive family situations and placing them in safe houses. The monitoring measures envisaged under the Act had also not yet been rolled out.

40. **Ms. Rossette-Cazel** (Cook Islands) said that land in the Cook Islands could be inherited only by Cook islanders. Landowners had the right to lease their land and men and women had an equal right to inherit land from their parents. Women landowners continued to own their land when they entered into marriage and in the event that they divorced.

41. **Ms. Herman** said that, although homosexuality and same-sex relationships remained illegal under the Crimes Act Amendment Bill, a number of NGOs were campaigning to have the legal status of homosexuality reviewed.

42. **Ms. Hofmeister** said that she wished to know when the Marriage Amendment Bill would be adopted; what role religious and traditional leaders played in Cook Islands society; whether the State party fulfilled its core obligations under the Convention; what role civil family courts played in advancing women's rights and human rights in general; and whether, in the area of family matters, women trusted judges and the police.

43. **Ms. Narain** said that she wished to know whether discrimination on grounds of sexual orientation was prohibited and whether lesbian, bisexual, transgender and intersex women faced discrimination in the areas of employment, education, health services or any other area.

44. **Ms. Rattle** (Cook Islands) said that lesbian, bisexual, gay, transgender and intersex persons were accepted on the Cook Islands and did not face any discrimination. The legality of same-sex relationships would be discussed in connection with the consultations held over the Crimes Act Amendment Bill. The Marriage Amendment Bill had yet to come before Parliament, so it was not possible at present to say when it would be adopted.

45. In closing, she acknowledged that the delegation had learned a great deal about the Convention and the way that it should be interpreted. The knowledge that the delegation had acquired would be conveyed to the Prime Minister and the members of the Cabinet so that the issues identified during the constructive dialogue could be addressed. The delegation felt sure that, when the next constructive dialogue was held in four years' time, it would be able to report that significant progress had been made in the advancement of women's rights.

The meeting rose at 5 p.m.